

**4099. Alleged adulteration of meat food products. U. S. \* \* \* v. 15 Tons of \* \* \* Meat Food Products \* \* \*. Judgment of dismissal. Product ordered released. (F. & D. No. 5901. S. No. 1900-a.)**

On May 20, 1913, the United States attorney for the District of Alaska filed in the District Court for the Territory and District of Alaska in the Fourth Judicial Division thereof, sitting as a district court of the United States, a libel for the seizure and condemnation of 15 tons of meat food products, alleged to have been diseased, adulterated, and deteriorated, consisting of pork and sausage, remaining unsold at Fairbanks, Alaska, alleging that the same was being offered for sale in the Territory of Alaska, and charging adulteration in violation of the Food and Drugs Act.

It was alleged in the libel that the product, consisting of pork and sausage, was, at the time the hogs were slaughtered or butchered, diseased, adulterated, and deteriorated to such a degree that the same was unfit for human consumption, and to such a degree as to render the same injurious and deleterious to the health of all persons purchasing and using the same; further, that said pork and sausage were the product of diseased animals, because the hogs, at the time they were slaughtered or butchered, had and were infected with swine pest fever, pneumonia, or cholera.

On April 24, 1915, a stipulation having been entered into for the dismissal of the proceedings and the destruction of a portion of the product and the release of the balance, the following judgment of dismissal was rendered by the court (Bunnell, J):

Upon reading and filing the stipulation of the respective parties hereto, to wit, on the part of the United States by R. F. Roth, Esq., United States attorney and proctor for libellant herein, and on the part of the claimant by Messrs. McGowan & Clark, proctors for said claimant, the Fairbanks Meat Co., a copartnership, to which stipulation is attached a copy of the report of Dr. J. Madsen, of the Bureau of Animal Industry, Department of Agriculture, inspector in charge at Seattle, Wash., after an examination of the meat and meat products mentioned in the libel of information herein; and it appearing from said stipulation and said report that no indications of hog cholera, swine-pest fever, or pneumonia were detected in any of the meat examined by said inspector; and it further appearing from said stipulation and said report that certain leaf lard and other exposed adipose tissue were found to be rancid and that two boxes of sausage evidenced a distinct sour cereal odor upon examination for wholesomeness; and it further appearing from said stipulation and report that none of the material allegations contained in the libel of information for condemnation filed herein are sustained, and that they can not be sustained by testimony, and that all the allegations contained in paragraphs I to IV, inclusive, of said libel of information filed herein are untrue, and that judgment dismissing this suit and proceeding with prejudice and without cost to either party as against the other shall now be entered, on motion of proctors for the claimant, Fairbanks Meat Co., a copartnership.

It is ordered, adjudged, and decreed by the court that the libel of information heretofore filed herein in behalf of the United States of America by the United States attorney for the Fourth Judicial Division, Territory of Alaska, be, and the same is hereby, dismissed, with prejudice and without costs to either party as against the other.

It is further ordered, adjudged, and decreed that the meat and meat products mentioned in said libel of information filed herein shall be returned to the claimant, Fairbanks Meat Co., a copartnership, from establishment No. 191, Frye & Co., Seattle, Wash., by delivering the same to the Pacific Cold Storage Co., a corporation, whose principal place of business is at Tacoma, Wash., such delivery to be made at said establishment 191, Frye & Co., Seattle, Wash., the said Pacific Cold Storage Co. being the agent of the Fairbanks Meat Co. aforesaid for the purpose of such delivery; and that at the time of such delivery said J. Madsen, the inspector in charge, as aforesaid, or any other officer with like authority, may cause to be destroyed such of said meat and meat products as in his judgment appears to be, at the time of such delivery, rancid or unwholesome; and that said Pacific Cold Storage Co., as agent of the Fairbanks Meat Co., a copartnership, accept delivery of the balance of said meat and meat products immediately upon receipt of a certified copy of this judgment of dismissal, or upon receipt of telegraphic advices thereof, at Seattle, Wash.; and

It is further ordered, adjudged, and decreed that the costs of storage of said meat and meat products at Seattle, Wash., and of said examination shall be paid by the

libellant, and that said meat and meat products shall be delivered, as aforesaid, without any cost, charge, or expense to the said claimant, the Fairbanks Meat Co., a copartnership.

Done in open court, at Fairbanks, Alaska, this 24th day of April, 1915.

CARL VROOMAN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., November 26, 1915.